

AMENDED IN ASSEMBLY APRIL 22, 2003

AMENDED IN ASSEMBLY MARCH 26, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 72

Introduced by Assembly Member Bates

**(Coauthors: Assembly Members Campbell, Cogdill, Cox, Daucher,
La Suer, Maddox, Maze, Pacheco, Plescia, Runner, and
Samuelian)**

(Coauthors: Senators Denham and Morrow)

December 19, 2002

An act to amend Sections 8212 and 8226 of the Education Code, and to amend Sections 1596.853, 1596.859, and 1596.890 of, and to add Sections 1596.773 and 1596.8891 to, the Health and Safety Code, relating to child care.

LEGISLATIVE COUNSEL'S DIGEST

AB 72, as amended, Bates. Child care providers.

Existing law establishes child care resource and referral programs, administered by public or private resource and referral agencies, which provide referrals to child care services and assistance to child day care providers. Existing law requires every child care resource and referral program to advise every person who requests a child care referral of his or her right to the licensing information of a licensed child day care facility required to be maintained at the facility, and to access any public files pertaining to the facility that are maintained by the State Department of Social Services Community Care Licensing Division.

Existing law requires the State Department of Social Services to notify a resource and referral agency when the department takes specified actions with respect to the license of a child day care facility within the resource and referral agency's jurisdiction.

This bill would, in addition, require every child care resource and referral program to remove a licensed child day care facility, with a revocation or a temporary suspension order or that is on probation, as defined, from the program's referral list. It would require each child care resource and referral agency to notify specified child day care payment programs in the agency's jurisdiction of every licensed child day care facility with a revocation or a temporary suspension order or that is on probation. *It would further require that once a resource and referral program notifies an alternative payment program, the alternative payment program terminate payment to the licensed child day care facility and notify the parents and facility that payment has been terminated and the reason for the termination.*

The bill would also require the department's Community Care Licensing Division to notify a child day care facility with a temporary suspension order or that is on probation that a resource and referral agency will not provide a referral for the facility. The bill would require the department to notify the resource and referral agency for a child day care facility's jurisdiction within 48 hours of the revocation or temporary suspension of the license of, or placement on probation of, the facility.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8212 of the Education Code is amended
2 to read:

3 8212. For purposes of this article, child care resource and
4 referral programs, established to serve a defined geographic area,
5 shall provide the following services:

6 (a) Identification of the full range of existing child care services
7 through information provided by all relevant public and private
8 agencies in the areas of service, and the development of a resource
9 file of those services which shall be maintained and updated at
10 least quarterly. These services shall include, but not be limited to,
11 family day care homes, public and private day care programs,



1 full-time and part-time programs, and infant, preschool, and
2 extended care programs.

3 The resource file shall include, but not be limited to, the
4 following information:

5 (1) Type of program.

6 (2) Hours of service.

7 (3) Ages of children served.

8 (4) Fees and eligibility for services.

9 (5) Significant program information.

10 (b) (1) Establishment of a referral process which responds to
11 parental need for information and which is provided with full
12 recognition of the confidentiality rights of parents. Resource and
13 referral programs shall make referrals to licensed child day care
14 facilities. Referrals shall be made to unlicensed care facilities only
15 if there is no requirement that the facility be licensed. The referral
16 process shall afford parents maximum access to all referral
17 information. This access shall include, but is not limited to,
18 telephone referrals to be made available for at least 30 hours per
19 week as part of a full week of operation. Every effort shall be made
20 to reach all parents within the defined geographic area, including,
21 but not limited to, any of the following:

22 (A) Toll-free telephone lines.

23 (B) Office space convenient to parents and providers.

24 (C) Referrals in languages which are spoken in the community.

25 Each child care resource and referral agency shall publicize its
26 services through all available media sources, agencies, and other
27 appropriate methods.

28 (2) (A) Provision of information to any person who requests
29 a child care referral of his or her right to view the licensing
30 information of a licensed child day care facility required to be
31 maintained at the facility pursuant to Section 1596.859 of the
32 Health and Safety Code and to access any public files pertaining
33 to the facility that are maintained by the State Department of Social
34 Services Community Care Licensing Division.

35 (B) A written or oral advisement in substantially the following
36 form will comply with the requirements of subparagraph (A):

37 “State law requires licensed child day care facilities to make
38 accessible to the public a copy of any licensing report pertaining
39 to the facility that documents a facility visit or a substantiated
40 complaint investigation. In addition, a more complete file

1 regarding a child care licensee may be available at an office of the
2 State Department of Social Services Community Care Licensing
3 Division. You have the right to access any public information in
4 these files.”

5 (3) Removal from the child care referral files of any licensed
6 child day care facility on the agency’s referral list ~~that has a~~ with
7 a revocation or a temporary suspension order or that is on
8 probation.

9 (c) Maintenance of ongoing documentation of requests for
10 service tabulated through the internal referral process. The
11 following documentation of requests for service shall be
12 maintained by all child care resource and referral agencies:

13 (1) Number of calls and contacts to the child care information
14 and referral agency or component.

15 (2) Ages of children served.

16 (3) Time category of child care request for each child.

17 (4) Special time category, such as nights, weekends, and swing
18 shift.

19 (5) Reason that the child care is needed.

20 This information shall be maintained in a manner that is easily
21 accessible for dissemination purposes.

22 (d) Provision of technical assistance to existing and potential
23 providers of all types of child care services. This assistance shall
24 include, but not be limited to:

25 (1) Information on all aspects of initiating new child care
26 services including, but not limited to, licensing, zoning, program
27 and budget development, and assistance in finding this
28 information from other sources.

29 (2) Information and resources that help existing child care
30 services providers to maximize their ability to serve the children
31 and parents of their community.

32 (3) Dissemination of information on current public issues
33 affecting the local and state delivery of child care services.

34 (4) Facilitation of communication between existing child care
35 and child-related services providers in the community served.

36 Services prescribed by this section shall be provided in order to
37 maximize parental choice in the selection of child care to facilitate
38 the maintenance and development of child care services and
39 resources.

1 SEC. 2. Section 8226 of the Education Code is amended to
2 read:

3 8226. (a) When making referrals, every agency operating
4 pursuant to this article shall provide information to any person who
5 requests a child care referral of his or her right to view the licensing
6 information of a licensed child day care facility required to be
7 maintained at the facility pursuant to Section 1596.859 of the
8 Health and Safety Code and to access any public files pertaining
9 to the facility that are maintained by the State Department of Social
10 Services Community Care Licensing Division.

11 (b) A written or oral advisement in substantially the following
12 form will comply with the requirements of subdivision (a):

13 “State law requires licensed child day care facilities to make
14 accessible to the public a copy of any licensing report pertaining
15 to the facility that documents a facility visit or a substantiated
16 complaint investigation. In addition, a more complete file
17 regarding a child care licensee may be available at an office of the
18 State Department of Social Services Community Care Licensing
19 Division. You have the right to access any public information in
20 these files.”

21 (c) Every agency operating pursuant to this article shall remove
22 from the agency’s referral list the name of any licensed child day
23 care facility with a revocation or a temporary suspension order or
24 that is on probation.

25 SEC. 3. Section 1596.773 is added to the Health and Safety
26 Code, to read:

27 1596.773. (a) “Probation” means the period of time that a
28 licensed child day care facility is required to comply with specific
29 terms and conditions set forth by the department in order to stay
30 or postpone the revocation of the facility’s license.

31 (b) “Revocation” means an administrative action taken by the
32 department to void or rescind the license of a child day care facility
33 because of serious or chronic violations of licensing laws or
34 regulations by the facility.

35 SEC. 4. Section 1596.853 of the Health and Safety Code is
36 amended to read:

37 1596.853. (a) Any person may request an inspection of any
38 child day care facility in accordance with the California Child Day
39 Care Facilities Act by transmitting to the department notice of an
40 alleged violation of applicable requirements prescribed by the

1 statutes or regulations of this state. A complaint may be made
2 either orally or in writing.

3 (b) The substance of the complaint shall be provided to the
4 licensee no earlier than at the time of the inspection. Unless the
5 complainant specifically requests otherwise, neither the substance
6 of the complaint provided the licensee nor any copy of the
7 complaint or any record published, released, or otherwise made
8 available to the licensee shall disclose the name of any person
9 mentioned in the complaint, except the name of any duly
10 authorized officer, employee, or agent of the department
11 conducting the investigation or inspection pursuant to this chapter.

12 (c) Upon receipt of a complaint, the department shall make a
13 preliminary review and, unless the department determines that the
14 complaint is willfully intended to harass a licensee or is without
15 any reasonable basis, the department shall make an onsite
16 inspection within 10 days after receiving the complaint, except
17 where the visit would adversely affect the licensing investigation
18 or the investigation of other agencies, including, but not limited to,
19 law enforcement agencies. In either event, the complainant shall
20 be promptly informed of the department's proposed course of
21 action.

22 If the department determines that the complaint is without a
23 reasonable basis, then the complaint shall be marked confidential
24 and shall not be disclosed to the public. The child-care provider
25 shall be notified in writing within 30 days of the dismissal that the
26 complaint has been dismissed.

27 (d) (1) The department shall notify a resource and referral
28 agency funded under Section 8210 of the Education Code, as
29 follows:

30 (A) Upon the issuance or denial of a license for a child day care
31 facility within the resource and referral agency's jurisdiction.

32 (B) Within 24 hours of a finding that physical or sexual abuse
33 has occurred at a child day care facility within the resource and
34 referral agency's jurisdiction.

35 (C) Within 48 hours of the issuance of a temporary suspension
36 order, or the revocation or placement on probation of a license for
37 a child day care facility within the resource and referral agency's
38 jurisdiction.



1 (D) The department shall also notify the resource and referral
2 agency of the final resolution of any action specified in this
3 paragraph.

4 (2) With the exception of parents seeking local day care
5 service, any other entity specified in subdivision (b) of Section
6 1596.86 may request that the department provide the notification
7 described in paragraph (1).

8 (e) When the department substantiates an allegation that it
9 deems to be serious in a facility funded by the Child Development
10 Division of the State Department of Education pursuant to Chapter
11 2 (commencing with Section 8200) of Part 6 of the Education
12 Code it shall notify the Child Development Division.

13 SEC. 5. Section 1596.859 of the Health and Safety Code is
14 amended to read:

15 1596.859. (a) (1) Each licensed child day care facility shall
16 make accessible to the public a copy of any licensing report
17 pertaining to the facility that documents a facility visit or a
18 substantiated complaint investigation. An individual report shall
19 not be required to be maintained beyond three years from the date
20 of issuance, and shall not include any information that would not
21 have been accessible to the public through the State Department
22 of Social Services Community Care Licensing Division.

23 (2) (A) Every child care resource and referral program
24 established pursuant to Article 2 (commencing with Section 8210)
25 of Chapter 2 of Part 6 of the Education Code, and every alternative
26 payment program established pursuant to Article 3 (commencing
27 with Section 8220) of Chapter 2 of Part 6 of the Education Code
28 shall advise every person who requests a child care referral of his
29 or her right to the licensing information of a licensed child day care
30 facility required to be maintained at the facility pursuant to this
31 section and to access any public files pertaining to the facility that
32 are maintained by the State Department of Social Services
33 Community Care Licensing Division.

34 (B) A written or oral advisement in substantially the following
35 form will comply with the requirements of subparagraph (A):

36 “State law requires licensed child day care facilities to make
37 accessible to the public a copy of any licensing report pertaining
38 to the facility that documents a facility visit or a substantiated
39 complaint investigation. In addition, a more complete file
40 regarding a child care licensee may be available at an office of the

1 State Department of Social Services Community Care Licensing
2 Division. You have the right to access any public information in
3 these files.”

4 (3) (A) Every child care resource and referral program
5 established pursuant to Article 2 (commencing with Section 8210)
6 of Chapter 2 of Part 6 of the Education Code shall remove a
7 licensed child day care facility with a revocation or a temporary
8 suspension order or that is on probation, from the program’s
9 referral list.

10 (B) Each child care resource and referral agency shall notify
11 every alternative payment program in the agency’s jurisdiction
12 that has been established pursuant to Article 3 (commencing with
13 Section 8220) of Chapter 2 of Part 6 of the Education Code of
14 every licensed child day care facility with a revocation or a
15 temporary suspension order, or that is on probation.

16 (4) *Once a child care resource and referral program*
17 *established pursuant to Article 2 (commencing with Section 8210)*
18 *of Chapter 2 of Part 6 of the Education Code notifies an alternative*
19 *payment program pursuant to subparagraph (B), the alternative*
20 *payment program shall do both of the following concurrently:*

21 (A) *Terminate payment to the licensed child day care facility*
22 *within 48 hours.*

23 (B) *Notify the parents and the licensed child day care facility*
24 *that payment has been terminated and the reason for the*
25 *termination.*

26 (b) Within 30 days after the date specified by the department
27 for a licensee to correct a deficiency, the department shall provide
28 the licensee with a licensing report or other appropriate document
29 verifying compliance or noncompliance. Notwithstanding any
30 other provision of law, and with good cause, the department may
31 provide the licensee with an alternate timeframe for providing the
32 licensing report or other appropriate document verifying
33 compliance or noncompliance. If the department provides the
34 licensee with an alternate timeframe, it shall also provide the
35 reasons for the alternate timeframe, in writing. The licensee may
36 make this documentation available to the public.

37 SEC. 6. Section 1596.8891 is added to the Health and Safety
38 Code, to read:

39 1596.8891. The State Department of Social Services
40 Community Care Licensing Division shall notify a licensed child



1 day care facility, with a revocation or a temporary suspension
2 order or that is on probation, that a resource and referral agency
3 will not provide a referral for that facility.

4 SEC. 7. Section 1596.890 of the Health and Safety Code is
5 amended to read:

6 1596.890. (a) Any person who willfully or repeatedly
7 violates any provision of this chapter, or any rule or regulation
8 promulgated under this chapter is guilty of a misdemeanor. Upon
9 conviction thereof, such a person shall be punished by a fine not
10 to exceed one thousand dollars (\$1,000) or by imprisonment in the
11 county jail for a period not to exceed 180 days, or by both the fine
12 and imprisonment. The operation of a child day care facility
13 without a license issued pursuant to this chapter shall make the
14 owner or operator, or both, subject to a summons to appear in
15 court.

16 (b) Notwithstanding subdivision (a) or any other provision of
17 law, the sole sanction for failure of a resource and referral agency
18 or an alternative payment program to comply with paragraphs (2)
19 ~~and (3)~~, (3), and (4) of subdivision (a) of Section 1596.859 shall
20 be set forth in the “Funding Terms and Conditions” agreement
21 between the affected agency or program and the State Department
22 of Education.

